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PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of

Flinchbaugh (TI-27768)

Serial No. 09/465,242

Group Art Unit: 2612

Filed: December 15, 1999

Examiner: Moe

For: Digital Still Camera with High-Quality Portrait Mode

PETITION FOR REFUND

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

This Petition is filed along with a Request for Continued Examination, and Petition for Extension of Time, in this application.

Applicant respectfully petitions the Commissioner, under 37 C.F.R. §1.182, for a refund of all or part of the fees paid for the extension of time filed with this paper, and also of the fee for this Petition, on the grounds that the extension of the time necessary for the filing of this Request for Continued Examination was entirely due to the fault of the Patent and Trademark Office.

An Office Action containing a final rejection of claims in this case on May 10, 2004. Applicant filed, by facsimile, an Amendment Under Rule 116 on July 21, 2004, within the three month shortened statutory period for response.¹ However, the Advisory Action was not mailed

¹ But not within the two-month period after the final rejection. MPEP §706.07(f).

in this application until October 20, 2004, nearly three full months after the filing of the Amendment Under Rule 116.

During the intervening time, the undersigned contacted the Patent and Trademark Office to find out the status of the review, by the Examiner, of the Amendment Under Rule 116. On or about September 10, 2004, the undersigned was advised, by Examiner Vu, that the file for this application was being scanned. Near the end of September, the undersigned was advised, by Examiner Vu, that this file was still "in scanning". And on or about October 1, the undersigned was advised, by Acting Group Director Faile, that he had "released" the file for this application to the Examiner. Since then, it is the understanding of the undersigned that this case was then assigned to a new Examiner (Examiner Moe); both the previous Examiner Vu and the new Examiner Moe courteously advised the undersigned of this reassignment.

The undersigned sincerely appreciates the courtesy extended to him by all personnel of the Patent and Trademark Office regarding this matter, including Examiners Vu and Moe, and Acting Group Director Faile.

However, it is apparent to the undersigned that at least two full months of the time between the filing of the Amendment Under Rule 116 and the mailing of the Advisory Action in this case elapsed because the file for this application was "in scanning". While the undersigned appreciates the benefits provided to the Patent and Trademark Office, and to the public at large, of the electronic storage and access to patent application files, Applicant respectfully submits that the delay caused by sending this application file to scanning for such a long time period while the case is on final rejection unfairly resulted in substantial extension of time fees.

Applicant therefore respectfully petitions the Commissioner for a refund of \$870 from the fee paid, by deposit account charge, for the three-month extension for response filed with these papers.² This refund would effectively reset the end of the shortened statutory period for response to the date of the mailing of the Advisory Action, on October 20, 2004.

² The fee under 37 C.F.R. §1.17(a)(3) less the fee under 37 C.F.R. §1.17(a)(1), for large entities.

Applicant further respectfully petitions the Commissioner for a refund of the \$180 fee for this Petition, as a matter of fairness considering that this Petition is directed to a refund of fees that were unfairly assessed in this case.

If this Petition is granted, please credit Deposit Account 20-0668 with the refunded amount.

Should the Patent and Trademark Office wish to discuss this Petition, please contact the undersigned by telephone.

Respectfully submitted,



Rodney M. Anderson

Registry No. 31,939

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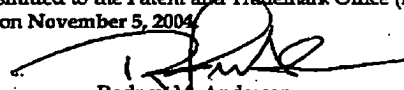
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CERTIFICATE OF FACSIMILE TRANSMISSION

37 C.F.R. 1.8

The undersigned hereby certifies that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax Number 703-872.9306) on November 5, 2004.



Rodney M. Anderson
Registry No. 31,939